

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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|---------------------------|---|------------------------|
| UNITED STATES OF AMERICA, | : | Case No. 3:10-cr-141 |
| | : | |
| vs. | : | Judge Timothy S. Black |
| | : | |
| DEWAYNE C. KEITH, | : | |
| | : | |

ORDER DENYING MOTION FOR REDUCTION OF SENTENCE (Doc. 32)

This case is before the Court on Defendant's motion for a reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2) (Doc. 32) and the United States' memorandum in opposition (Doc. 36).

On January 6, 2011, the Defendant was sentenced for possession with intent to distribute cocaine base (Count 3) and possession of a firearm in relation to a drug trafficking crime (Count 5).

The Fair Sentencing Act ("FSA") crack reduction guidelines took effect on November 1, 2010. The 2010 United States Sentencing Guidelines edition specifically states that it incorporates guideline amendments effective November 1, 2010, and earlier. (*See* the 2010 United States Sentencing Guidelines Manual cover). In Defendant's Presentencing Investigation Report ("PSR"), the U.S. Probation Officer expressly states that the 2010 edition of the United States Sentencing Guidelines Manual was utilized to calculate the Defendant's sentence (*see* PSR at ¶ 49), and the Defendant was sentenced pursuant to those guidelines. (Doc. 24). Since Mr. Keith received the benefit of the FSA Guideline Amendment when he was sentenced, he cannot claim any further reductions in his sentence.

Therefore, Defendant's motion for a reduction in sentence (Doc. 32) is **DENIED**.

IT IS SO ORDERED.

Date: January 31, 2012

s/Timothy S. Black
Timothy S. Black
United States District Judge